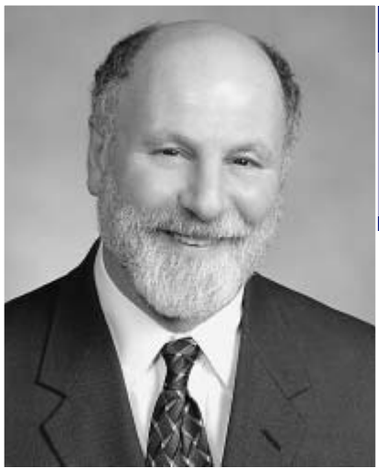


LEGISLATIVE UPDATE

Senator
Adam Kline

37TH LEGISLATIVE DISTRICT • MAY 2004

Dear Friends and Neighbors,

It's been another hard session in Olympia, another grade B movie. The shooting's over, the dust has settled, and only one of our guys got hurt. No further damage to funding for social services, environmental protection, or health care; no further robbery of General Fund money to build highways; no further reliance on issuing state bonds (borrowing money now for our kids to repay later) instead of taxing ourselves. Not even the much-expected deform of our laws involving civil liability for medical errors. We done fought off them bandits pretty good, yesirree. So let's dust ourselves off and survey the new terrain.

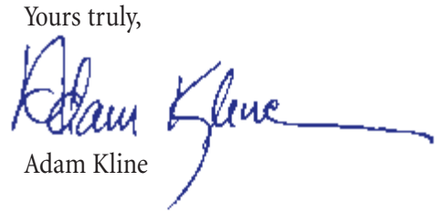
First, the one we lost: we'll now have charter schools. I'm not a fan of charters, and what makes this one hurt most is that this version takes the final say-so away from the elected local school board, and gives it to the Superintendent of Public Instruction in Olympia—just the opposite of the "local control" that legislators like to crow about.

Now the good part: we brought home a raise for the Home Health Care Workers. These are the folks who take care of disabled and/or elderly patients in the patients' homes, helping with mobility, toileting, feeding, and other chores, for which they get paid peanuts. It's not the raise we wished we could afford, and it sure isn't the raise they deserve, but in the land of No New Taxes it's the raise we could afford. It's a fraction of the money they save the State by keeping folks out of much more expensive nursing care.

Late in the session, we finally fixed the primary election, after a federal court ruled it unconstitutional. Ultimately, I think we did the right thing. I'm confident that the Greens, Libertarians, and other small parties will still be heard in the general election, and will still make us think.

There's always more to it than I can put in this little space, so I've listed a few more topics—domestic violence, same-sex marriage and Holocaust–era insurance claims—down at the bottom of the last page. If you feel a rant coming on, just call my emergency number, 206.625.0800, and ask for Dr. Kline's Political Therapy Clinic.

Yours truly,



Adam Kline

Charter Schools Bill Passes

This year, I received e-mails expressing both support for and opposition to legislation establishing charter schools, running about 8-1 opposed. The writers definitely shared a very strong dissatisfaction with the state of K-12 education in Washington, and I certainly share it as well. I just don't believe that charter schools offer a practical solution to the myriad of problems faced by our public schools. This year I found myself in the minority: the bill passed the House 51-46, then the Senate 27-22.

I believe that charter schools have the potential to do great harm to our public schools, and represent a distraction from the real threat to continued school improvement in Washington: chronically inadequate, unstable funding. Charter schools have been seen by some of the proponents as a guise for draining money from public institutions in order to fund essentially private institutions. I know that those who wrote to me in support of the bill don't see it that way themselves, but I believe that this view is held, though not publicly expressed, by many in this conservative-dominated movement.

The version of the charter school bill that passed the Legislature last month envisions a prohibitively expensive pilot program in a time when we're still unable to fully fund the increase in teacher salaries and the smaller class size requirements called for by I-728 and I-732. Many of the educators I've spoken with are extremely concerned with the increased administrative functions, costs and complicated regulations and procedures. One of the educators who testified against charter schools called them "a lawyer's dream and a school board's nightmare" because school boards, the Superintendent of Public Instruction, and Educational Service Districts won't be able to take on the tasks of the bill without consulting a raft of lawyers.

Just as importantly, in the last decade of charter school experimentation across the U.S., I haven't seen compelling evidence of their success. The vast majority of charter schools haven't lived up to the expectations of advocates. Studies by the RAND Corporation, UCLA, Stanford University and many other universities find that charter schools, at best, do about as well as public schools. They often do worse when compared to demographically similar schools.

A wide-range of studies also show that charter schools hire more underqualified and inexperienced teachers, pay teachers less, provide fewer resources for special-ed students and students from low-income families, and experience faster staff turnover.

After some long late-night arguments on the next-to-last day of the session, I said I'd consider supporting charter school legislation only if three important conditions were met. First, the local school district must be the body to establish the charter. No waivers or exceptions via administrative appeal to the Superintendent of Public Instruction or the Educational Service District. The elected district board must be in charge. Those are the

(Charter schools continued)

(Charter schools continued)

folks who have to answer to the voters/parents.

Second, the per-capita funding for the charter school must be determined by the same formula as the district's own schools, by statute. This will prevent the "skimming" of the most capable students, guarantee equitable funding, and promote diversity in both charter schools and regular public schools.

Third, HB 1209, the 1993 education reform bill which set high academic standards, must be incorporated in full, by reference, in any charter school bill. Not some of the standards, but all of them, explicitly, in the law itself, so a charter school's board can't even think about not meeting those standards.

Until this session, Washington was one of only 10 states without a charter law. Voters here have rejected charter initiatives twice, most recently in 2000. Yet during each of the last five Legislative Sessions, we've considered at least one charter school bill. (That by itself bothers me: if we can't revisit certain taxes because "the people have spoken" in the form of anti-tax initiatives, then why are we constantly revisiting charters when they've said no—twice—to charters?)

This year, charter school advocates, supported by Governor Locke, finally prevailed with HB 2295. While it meets the first two of my personal criteria, HB 2295 also gives the Superintendent of Public Instruction power to override the decision of the local school board. In late January, this bill passed out of the House Education Committee by a 7 to 4 vote, but it ended up stalling out in the House Rules committee, where, according to the conventional wisdom, it was dead. Then, a few days before the end of session, it arose and fought its way through the House by a five-vote margin and then by the same margin through the Senate. I voted No.

In their proposed Supplemental Budgets, the Governor and the Senate each provided $5 million to the Office of the Superintendent of Public Instruction to implement charter schools legislation. The House at first didn't include any funding for this item, but in negotiations in those last days accepted the Senate's appropriation level.

I care deeply about our public schools. I am committed to seeing that every student gets the best education possible. I just don't feel that charters are the way to advance these interests. I also believe that this is one of those subjects on which reasonable people disagree. I recognize among the supporters of charter schools many people whose judgment I respect. I'm just not there.

Thanks to all who shared their thoughts with me.

Some Relief for Home Health Care Workers

Given our budget problems, it's no surprise that various beneficial functions of state government are forced to compete with each other for funds: social services versus education versus health care versus environmental protection—none of them adequately funded, and all of them represented by constituencies who advocate forcefully (and in my view rightly) for additional funds. This presents a tough enough decision for a liberal like me who wants to adequately fund all worthy programs. Add to this the human dimension that comes with salary decisions, and it gets even tougher. To whom would I rather deny a well-earned raise: teachers, state employees, or home health care workers? I had to make this decision once again, and I'm not happy. The toughest part is knowing that our poverty is self-imposed, a combination of our archaic tax structure and an electorate too easily mislead into simply cutting taxes.

One bright spot these past two years was the increase we gave the home health care workers, though in this zero-sum game we play with No New Taxes, it came at the expense of the state employees and teachers. The home health care workers are those 26,000 people who work directly, as attendants and chore-workers, for individuals eligible for Medicaid benefits as a result of disability and poverty. Depending on the needs of the patient, they may cook and clean house, or may attend the patient personally: bathing, toileting, moving from bed to chair, even feeding by hand where required. It's not glamorous work, it's physically demanding and often causes injuries, and the pay's been lousy, so it's no surprise there's been high turnover. Yet the work is essential, for the alternative is for patients to be removed from their own homes to be either housed in assisted living situations which reflect a spectrum of privacy and structure, or to be quasi-institutionalized in nursing homes. Either or both may be needed for an individual at some point, but home care delays that point, at great personal benefit to the individual and great financial saving to the individual's family and the state.

So in 2003, we gave them a raise, starting from the lousy $7.68 an hour they earned going into the 2003 session, up 75 cents to $8.43. (Never mind that they had just negotiated a contract for a $2.07 raise, with the Home Care Quality Authority, which was established in Initiative 775 to negotiate as if it were the employer. We refused to ratify and fund that contract; my Yes vote being in the minority as usual.) The 75 cents, or about $1,350 a year for a full-time worker, brought the full-time annual wage to $16,000. Then last month we covered them by Workers Compensation, effective October 1, and on the same date gave them another 50-cent raise, to $8.93 an hour or about $16,900 a year. Whoopee. That *wage* is less than the annual savings we realize from not having a Medicaid patient in a nursing home. More to the point, few home care workers have full-time positions, so their actual raises are much less.

Still, it's better than we did for the teachers and state employees, both of whom got no raise at all. I call it triage, helping the worst-off first. We're capable of much better than this.

The Primary Election: Louisiana or Montana?

Newspaper readers had every right to be confused this past year, as the local press tried valiantly to explain the various schemes proposed as replacements for our court-stricken primary election law. Our old "blanket" primary—so named because it put all candidates on the ballot—has now been finally put to rest with the Supreme Court's refusal to hear the State's appeal from a court ruling that it was unconstitutional.

The characteristic that the court found unconstitutional was exactly what made it so popular: it allowed cross-over voting. (Who among us hasn't at least once voted for the Other Guys' weaker candidate? I confess, I voted for Linda Smith for U.S. Senate.) This, the parties claimed, violates their First Amendment right to select their own candidates without interference from their opponents. It did, but it was a whole lot of fun while it lasted.

The natural tendency of elected officials, given the popularity of the blanket primary, is to make the change that appears to be the least. Hence the strong showing in both houses for the scheme invented by Gov. Huey Long in the 1920's, when his ire was for some reason focused on the bosses of Louisiana's only real party at the time, his own. Like the blanket primary, it allows all candidates a place on the same ballot, and allows all voters to vote for any candidate—exactly what prompted the parties to sue—then advances the top two vote-getters to the general election. The parties' argument, that this would bring them right back to court, appeared to make no headway with legislators intent on showing the public that they would make the least change possible. Indeed, for some legislators it was a chance to poke the parties publicly—those bosses!—while loudly proclaiming their love for motherhood, the flag, and the blanket primary.

The problem with the Louisiana version—the Cajuns don't want their name associated with it—is that it makes it much more difficult for small parties to advance their candidates to the general election, when most voters vote. I remain a strong believer in small parties, whose greater contribution is not their candidates but their ideas, which they often advance in election forums. To remove them from the public debate in September, when most voters are just beginning to pay attention, is to deny these ideas their most active forum, and to narrow even further the gateway to the marketplace of ideas.

When Gov. Long's handiwork passed the Senate (I voted No), the House kept it as the favored method, but added a "back-up" method in the event the courts indeed found it unconstitutional. Under this method, borrowed from Montana, each voter gets to choose which party's ballot he or she will take, and that ballot lists only that party's recognized candidates.

The House, perhaps with a wink and a nod to the Governor, wrote the new language in separate sections, making it convenient for him to veto the Louisiana method without vetoing the entire bill, which would have left us without a primary, and thus with a crowded California-style ballot in November. As I write this newsletter, Gov. Locke has done just that, leaving us with a version that allows the greater number of voters (in November) a choice among all of the

parties on the ballot, and allows small parties to get their messages out all season long.

I'd have preferred to get there without the little dance—the well-choreographed ritual by which my colleagues professed their love for the version that does the least change, while they left a back-door way for the Governor to do the deed. Still, we got there.

Domestic Violence Revisited

We'll win the war against domestic violence when we start paying attention to our kids. Is there anyone left who doesn't understand that abused children learn to become abusive adults? The psycho-dynamics of this cycle may be beyond most legislators' understanding, but we understand well enough that there is a cycle.

But since the parenting programs that might lower the incidence of domestic violence are exactly what we're forced to cut these days—No New Taxes! No New Taxes!—the prospect is for an increase in abusive incidents. The "jobless recovery" from the current recession isn't helping, since unemployment is a known contributing factor. So we end up dealing with the symptoms, never the cause.

Three years ago, I read in the local paper that an Oregon woman had gone to that state's highest court to win a decision allowing her to sue the landlord of an apartment house for refusing to rent to her because she was a domestic violence *victim*. I called the NW Women's Law Center to find – not at all to my surprise – that the Center had represented her in that effort. And "yes, that's right," came the answer to my next question, "we do intend to do it again in Washington state."

But why, I thought, should this have to be done by lawsuit? Isn't that exactly what legislatures are for? Now, I'm a big fan of all those overworked and underpaid lawyers just naïve enough to think that Accountability really does apply to the corporate folk, and that courts are the people's instrument of Accountability, and that wherever the law may be used as a corrective to an abusive authority, public or private, it ought to be. (Which, by the way, is why the insurance industry hollers like a stuck pig about lawsuits: Accountability hurts.)

Anyway, what better way to help these crusading lawyers and their clients than by just doing what comes naturally to a legislature—making laws. Both the Law Center and the Residential Housing Association (the landlords' group) agreed to meet, and meet we did. Some six or seven times over the next year, sometimes joined by representatives of the King County Sexual Assault Center and the YWCA, we met and hammered out a proposed bill: victims would be allowed to break their leases if necessary to leave abusive relationships, and if they sought rentals elsewhere they could not be refused on the sole basis that they were victims. That's the long and short of it. And it's now the law, effective July 1.

SB 5224, sponsored by Sen. Don Benton and myself, is the outgrowth of these meetings. I asked Sen. Benton to sponsor the bill because he's a conservative Republican – my political opposite – and the chair of the committee it

(Continued next page)

Senator Adam Kline Legislative Update

(Domestic violence – continued)

would have to navigate first. Yes, there's a logic to this: Republicans are the majority in the Senate, and a bill moves faster with a majority sponsor. The bill's identical twin, HB 1645, was the version that ultimately passed both houses and was signed by Gov. Locke.

The Law Center's and landlords' representatives negotiated in good faith, and saved themselves a lawsuit. Domestic violence victims now have a way out, within the law. Advocacy organizations are now poised to advise those clients who express a desire to leave. Yes, some progress has been made.

But our resources would be used much more efficiently—in terms both of dollar cost and human cost—by preventing domestic violence, rather than by dealing with the consequences. There are programs with a proven track-records in prevention; they just cost staff time and money. Like so many of the problems that confront real people, we as a society will get at the root causes when we quit kidding ourselves that government programs never work, that government itself is the problem, and that the best way to solve it is No New Taxes.

Same-Sex Marriage

The parade doesn't always start when the leaders say so. Sometimes it starts when the first troops step off the curb. Without much care to the outcomes of lawsuits, to leaders' sense of political timing, nor to Democrats' fear of a hot campaign issue, gay and lesbian couples in San Francisco enlisted a gutsy new mayor to just strike up the band. Good for them! After meeting with friends in the gay and lesbian community, I've decided not to introduce compromise legislation (civil unions, insurance coverage for domestic partners, hospital visiting privileges, etc.) until the real issue—marriage—is resolved. I trust that some day we will recognize that there is no second-class love.

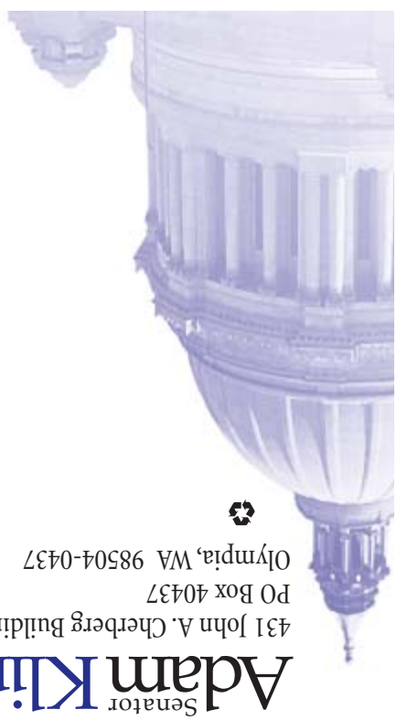
Holocaust Insurance Claims

In 2000, Insurance Commissioner Deborah Senn and I wrote legislation requiring insurance companies who do business in Washington, either directly or through affiliates, to divulge the names of Holocaust-era life insurance policyholders whose policies were never claimed. The bill, which passed with large majorities in both houses, was aimed at recalcitrant European insurance companies which in the post-World War II period had refused claims not documented by a death certificate. The Nazis did not issue death certificates. Now, intent on outlasting the elderly survivors who might make those belated claims before they die, the companies are grimly refusing to publish the policy-holders' names and identifying information, despite the pleas of an international commission. Since the claims are now being litigated in federal court, Rep. Shay Schual-Berke and I decided that a Joint Memorial from the Washington Legislature might make a fitting statement to the court. The Legislature obliged, in the form of HJM 4028/SJM8023.

Incidentally, the names of the European insurance companies and their present-day American affiliates are on the Insurance Commissioner's website, at http://www.insurance.wa.gov/industry/holocaust/holocaust.asp. This is important reading for conscientious consumers.

KEEP IN TOUCH

I can be reached by mail at: PO Box 40437, Olympia, WA 98504-0437, by phone at 360-786-7688 or by the toll-free legislative hot line at 1-800-562-6000, and by e-mail at kline_ad@leg.wa.gov. So? So I want to hear from you!



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